

**SUPREME COURT MINUTES
MONDAY, MARCH 3, 2008
SAN FRANCISCO, CALIFORNIA**

S151022 D046600 Fourth Appellate District, Div. 1 **JONES (SCOTT) v. LODGE
AT TORREY PINES
PARTNERSHIP**

Opinion filed: Judgment reversed of the Court of Appeal and remanded to that court.

Opinion by: Chin, J.

-----joined by: George, C. J., Baxter, and Corrigan, JJ.

Dissenting opinion by: Werdegarr, J.

Dissenting opinion by: Moreno, J.

-----joined by: Kennard and Werdegarr, JJ.

S161208 **DAVIS (CHARLES T.) v.
COURT OF APPEAL THIRD
APPELLATE DISTRICT
(DEPARTMENT OF
CORRECTIONS &
REHABILITATION)**

The application of petitioner for leave to file petition for writ of mandate is hereby denied.

S031641 **PEOPLE v. TATE (GREGORY
O.)**

Extension of time granted.

Good cause appearing, and based upon Deputy State Public Defender Harry Gruber's representation that he anticipates filing the appellant's reply brief by August 4, 2008, counsel's request for an extension of time in which to file that brief is granted to May 5, 2008. After that date, only two further extensions totaling about 90 additional days are contemplated.

S043520**PEOPLE v. POWELL (CARL
DEVON)**

Extension of time granted.

Good cause appearing, and based upon counsel Neoma D. Kenwood's representation that she anticipates filing the appellant's opening brief by September 4, 2008, counsel's request for an extension of time in which to file that brief is granted to May 5, 2008. After that date, only two further extensions totaling about 120 additional days are contemplated.

S044592**PEOPLE v. HOMICK
(STEVEN)**

Extension of time granted.

Good cause appearing, and based upon counsel Mark E. Cutler's representation that he anticipates filing the appellant's opening brief by mid-2008, counsel's request for an extension of time in which to file that brief is granted to April 25, 2008. After that date, only one further extension totaling about 60 additional days is contemplated.

S045423**PEOPLE v. FUENTES
(EDGARDO SANCHEZ)**

Extension of time granted.

Good cause appearing, and based upon Deputy State Public Defender Sara Theiss's representation that she anticipates filing the appellant's opening brief by March 2010, counsel's request for an extension of time in which to file that brief is granted to May 6, 2008. After that date, only 11 further extensions totaling about 666 additional days will be granted.

**S048763
(SERGIO)****PEOPLE v. NELSON
D.)**

Extension of time granted.

Good cause appearing, and based upon Senior Deputy State Public Defender Joseph Chabot's representation that he anticipates filing the appellant's reply brief by November 6, 2008, counsel's request for an extension of time in which to file that brief is granted to May 5, 2008. After that date, only three further extensions totaling about 150 additional days are contemplated.

S049741**PEOPLE v. SUFF (WILLIAM
LESTER)**

Extension of time granted.

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's reply brief is extended to April 28, 2008.

S067392**PEOPLE v. FREDERICKSON
(DANIEL)**

Extension of time granted.

Good cause appearing, and based upon Deputy State Public Defender Douglas Ward's representation that he anticipates filing the appellant's opening brief by July 8, 2008, counsel's request for an extension of time in which to file that brief is granted to May 2, 2008. After that date, only one further extension totaling about 68 additional days is contemplated.

S070536**PEOPLE v. MACIEL (LUIS)**

Extension of time granted.

Good cause appearing, and based upon counsel Melissa Hill's representation that she anticipates filing the appellant's reply brief by April 29, 2009, counsel's request for an extension of time in which to file that brief is granted to April 29, 2008. After that date, only six further extensions totaling about 365 additional days are contemplated.

S076175**PEOPLE v. LOY (ELOY)**

Extension of time granted.

Good cause appearing, and based upon Deputy Attorney General Susan Sullivan Pithey's representation that she anticipates filing the respondent's brief by April 25, 2008, counsel's request for an extension of time in which to file that brief is granted to April 25, 2008. After that date, no further extension is contemplated.

S077524**PEOPLE v. SALAZAR
(MAGDALENO)**

Extension of time granted.

Good cause appearing, and based upon Deputy State Public Defender Ellen J. Eggers's representation that she anticipates filing the appellant's opening brief by October 1, 2008, counsel's request for an extension of time in which to file that brief is granted to May 6, 2008. After that date, only three further extensions totaling about 148 additional days are contemplated.

S086269**PEOPLE v. JACKSON
(JONATHAN K.)**

Extension of time granted.

Good cause appearing, and based upon counsel Gilbert Gaynor's representation that he anticipates filing the appellant's opening brief by June 27, 2008, counsel's request for an extension of time in which to file that brief is granted to April 28, 2008. After that date, only one further extension totaling about 60 additional days will be granted.

S093756

**PEOPLE v. WILLIAMS
(COREY LEIGH)**

Extension of time granted.

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to April 25, 2008.

S095076

**PEOPLE v. PENUNURI
(RICHARD)**

Extension of time granted.

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to April 28, 2008.

S096809

**PEOPLE v. POYNTON
(RICHARD JAMES)**

Extension of time granted.

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to April 28, 2008.

S097558

**PEOPLE v. GARTON (TODD
JESSE)**

Extension of time granted.

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to May 2, 2008.

S099844

**PEOPLE v. RAMIREZ (JUAN
VILLA)**

Extension of time granted.

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to April 25, 2008.

S117235**LEWIS, JR., (ROBERT) ON
H.C.**

Extension of time granted.

Good cause appearing, and based upon counsel Robert M. Sanger's representation that he anticipates filing the reply to return to petition for writ of habeas corpus by April 28, 2008, counsel's request for an extension of time in which to file that document is granted to April 28, 2008. After that date, no further extension is contemplated.

S136672**DE PRIEST (TIMOTHY LEE)
ON H.C.**

Extension of time granted.

Good cause appearing, and based upon counsel Thomas Nishi's representation that he anticipates filing the reply to the informal response to the petition for writ of habeas corpus by April 30, 2008, counsel's request for an extension of time in which to file that document is granted to April 30, 2008. After that date, no further extension is contemplated.

S143058**RICCARDI (JOHN
ALEXANDER) ON H.C.**

Extension of time granted.

Good cause appearing, counsel's request for an extension of time in which to file the reply to the informal response to the petition for writ of habeas corpus is granted to April 28, 2008. After that date, no further extension is contemplated.

S144756**HARRIS (LANELL CRAIG)
ON H.C.**

Extension of time granted.

Good cause appearing, and based upon counsel Alfons G. Wagner's representation that he anticipates filing the reply to the informal response to the petition for writ of habeas corpus by October 1, 2008, counsel's request for an extension of time in which to file that document is granted to April 29, 2008. After that date, only three further extensions totaling about 150 additional days are contemplated.

S156682**WILLIAMS (GEORGE
BRETT) ON H.C.**

Extension of time granted.

Good cause appearing, and based upon Deputy Attorney General Stephanie A. Miyoshi's representation that she anticipates filing the informal response to the petition for writ of habeas corpus by August 29, 2008, counsel's request for an extension of time in which to file that document is granted to April 28, 2008. After that date, only two further extensions totaling about 120 additional days are contemplated.

S157341 D049251 Fourth Appellate District, Div. 1**LEXIN (CATHY) v. S.C.
(PEOPLE)**

Extension of time granted.

On application of real party in interest and good cause appearing, it is ordered that the time to serve and file the answer brief on the merits is extended to March 28, 2008.

S159690 C050885 Third Appellate District**STOCKTON CITIZENS FOR
SENSIBLE PLANNING v.
CITY OF STOCKTON (A.G.
SPANOS CONSTRUCTION,
INC.)**

Extension of time granted.

On application of real parties in interest and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to April 13, 2008.

S160110**DANIELS (JARVIS) ON H.C.**

Extension of time granted.

On application of respondent and good cause appearing, it is ordered that the time to serve and file the informal response to the petition for writ of habeas corpus is extended to March 27, 2008. No other requests for extensions of time will be granted.

S113421**PEOPLE v. HARDY
(WARREN)**

Counsel appointment order filed.

Upon request of appellant for appointment of counsel, Susan K. Keiser is hereby appointed to represent appellant Warren Hardy for the direct appeal in the above automatic appeal now pending in this court.

S158852 A112197 First Appellate District, Div. 4 **PEOPLE v. STEVENS
(LORENZO)**

Counsel appointment order filed.

Upon request of appellant for appointment of counsel, Alan Charles Dell'Ario is hereby appointed to represent appellant on the appeal now pending in this court. Appellant's brief on the merits must be served and filed on or before thirty (30) days from the date of this order.

S158890 B196075 Second Appellate District, Div. 7 **PEOPLE v. GUNTER
(STEVEN)**

Counsel appointment order filed.

Upon request of appellant for appointment of counsel, Syda Kosofsky is hereby appointed to represent appellant on the appeal now pending in this court.

S159660 B195184 Second Appellate District, Div. 8 **PEOPLE v. TREJO
(MARCOS)**

Counsel appointment order filed.

Upon request of appellant for appointment of counsel, Marilee Marshall is hereby appointed to represent appellant on the appeal now pending in this court.

S159730 B193976 Second Appellate District, Div. 1 **PEOPLE v. MARTINEZ
(JOEL)**

Counsel appointment order filed.

Upon request of appellant for appointment of counsel, Nancy J. King is hereby appointed to represent appellant on the appeal now pending in this court.

S159850 B193050 Second Appellate District, Div. 5 **PEOPLE v. BECKHAM
(ROBERT L.)**

Counsel appointment order filed.

Upon request of appellant for appointment of counsel, Marta I. Stanton is hereby appointed to represent appellant on the appeal now pending in this court.

S140547 A104828/A104830/A105391/A105388
First Appellate District, Div. 5

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Order filed.

The application of GREP Bay Area Holdings, LLC, AES Sea West, Inc., and enXco, Inc., for permission to file an amicus curiae brief is denied as untimely.

**ENVIRONMENTAL
PROTECTION
INFORMATION CENTER v.
CALIFORNIA DEPARTMENT
OF FORESTRY & FIRE
PROTECTION
LUMBER COMPANY)**

S153183 H029324 Sixth Appellate District

**PEOPLE v. KIM (HYUNG
JOON)**

Order filed.

The application of appellant (The People) for permission to file the answer brief on the merits containing 23,192 words that exceeds the 14,000 word limit prescribed by California Rules of Court rule 8.520(c) by 9,192 words is hereby granted.

S161221

**BROOKS (JAY) v. S.C.
(PEOPLE)**

Transferred to the Court of Appeal, Second Appellate District, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

S161222

**ODOM (JOHN) v. S.C.
(PEOPLE)**

The above entitled-matter is transferred to the Court of Appeal, Second Appellate District.

S161228

**MELCHIONNE (MARIO A.) v.
S.C. (PEOPLE)**

Transferred to the Court of Appeal, Fifth Appellate District, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

B201031

**NILLO (BONIFACIO A.) v.
NILLO (ANGELINA)**

The above entitled-matter, now pending in the Court of Appeal, Second Appellate District, is transferred from Division Three to Division One.

B201968

**DEWEY (MELIKE) v. KIM
(DAVID A.)**

The above entitled-matter, now pending in the Court of Appeal, Second Appellate District, is transferred from Division One to Division Three.

B205514

**MARK HUGHES FAMILY
TRUST, IN RE**

The above entitled-matter, now pending in the Court of Appeal, Second Appellate District, is transferred to the Court of Appeal, First Appellate District.

S159812**MALIK ON DISCIPLINE**

Recommended discipline imposed.

It is ordered that AFTAB A. MALIK, State Bar No. 171926, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on October 30, 2007. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and one-third of said costs be paid with membership fees for the years 2009, 2010, and 2011. It is further ordered that if respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to Business and Professions Code section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S159814**WILSON ON DISCIPLINE**

Recommended discipline imposed.

It is ordered that GLENN R. WILSON, State Bar No. 183727, be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for

two years on condition that he be actually suspended for 30 days. Respondent is also ordered to comply with the other conditions of probation, including restitution, as recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed November 7, 2007. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and one-half of said costs be paid with membership fees for the years 2009 and 2010. It is further ordered that if respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to Business and Professions Code section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S159816**SILVA ON DISCIPLINE**

Recommended discipline imposed.

It is ordered that DAVID ANTHONY SILVA, State Bar No.149506, be suspended from the practice of law for five years, that execution of the suspension be stayed, and that he be actually suspended from the practice of law for two years and until he makes restitution to Stacy Jura in the amount of \$3,000 plus 10 percent interest per annum from March 27, 2002, (or to the Client Security Fund to the extent of any payment from the fund to Stacy Jura, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnishes satisfactory proof thereof to the State Bar's Office of Probation in Los Angeles, as recommended by the Hearing Department of the State Bar Court in its decision filed on September 24, 2007; and until the State Bar Court grants a motion to terminate his actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California; and until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d). Respondent is also ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for termination of his actual suspension. It is further ordered that respondent take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that respondent comply with rule 9.20 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

*(See Bus. & Prof. Code, Section 6126, subd. (c).)

S159817**CHAPUT ON DISCIPLINE**

Recommended discipline imposed: disbarred.

It is ordered that the license of THOMAS P. CHAPUT, State Bar No. 236048, to practice law in the State of California is hereby cancelled and his name is stricken from the roll of attorneys. It is further ordered that THOMAS P. CHAPUT comply with rule 9.20, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.

S161085**LAFLAMME ON
RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of NANCY ANNE LAFLAMME, State Bar No. 61808, as a member of the State Bar of California is accepted.

S161089**LUCEY ON RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of GERALD ROBERT LUCEY, State Bar No. 42955, as a member of the State Bar of California is accepted.

S161090**LEE ON RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of GREGORY T. H. LEE, State Bar No. 162532, as a member of the State Bar of California is accepted.

S161091**LUDWIKOWSKI ON
RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of LUCY L. LUDWIKOWSKI, State Bar No. 136991, as a member of the State Bar of California is accepted.

S161092**MCCOY ON RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of NEAL S. MCCOY, State Bar No. 38378, as a member of the State Bar of California is accepted.

S161094**MCGAVIN ON
RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of JANET FALLETTI MCGAVIN, State Bar No. 121620, as a member of the State Bar of California is accepted.

S161098**MEDD ON RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of KERRY E. MEDD, State Bar No. 212466, as a member of the State Bar of California is accepted.

S161099**RAIDER ON RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of DANIEL FREDERIC RAIDER, State Bar No. 73573, as a member of the State Bar of California is accepted.

S161101**MILLER ON
RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of LAWRENCE BLOOMINGTON MILLER, State Bar No. 42990, as a member of the State Bar of California is accepted.

S161103**MITCHELL ON
RESIGNATION**

Voluntary resignation accepted. The voluntary resignation of ROBERT MICHAEL MITCHELL, State Bar No. 64412, as a member of the State Bar of California is accepted.